

**CITY OF FREDERICK
ZONING BOARD OF APPEALS
MEETING MINUTES
November 26, 2013**

MEMBERS PRESENT:	MEMBERS ABSENT:	STAFF PRESENT:
Mr. Racheff Ms. Colby Mr. Patchan Mr. Butcher Mr. Marvin Kennedy Mr. Ying		Gabrielle Dunn, Division Manager of Current Planning Rachel Depo, Assistant City Attorney Jeff Love, City Planner

ANNOUNCEMENTS

For the benefit of the audience and especially the applicants, Mr. Racheff, Chairman, explained the Zoning Board of Appeals process and introduced staff by name.

APPROVAL OF MINUTES:

October 22, 2013 ZBA Minutes

MOTION: Mr. Butcher moved to approve the October 22, 2013 hearing minutes as published.
SECOND: Ms. Colby
VOTE: 4-0

GENERAL PUBLIC COMMENT

There were no general comments.

CASES TO BE HEARD

OLD BUSINESS

CASE NO.: ZBA13-329A, Appeal
LOCATION: 1910 Rosemont Avenue
APPLICANT: Leslie Powell

Mr. Racheff gave a overview to the Audience that this case is an appeal by Janie M. Denn, Kathleen A. Murphy, and Charles F. Trunk, III ("Appellants") from the decision of the Planning Commission to approve a Final Subdivision Plat submitted by the Board of County Commissions for Frederick County (BOCC) for the purpose of subdividing the North Montevue Campus, located at 1910 Rosemont Avenue, into two lots. The hearing for this case was conducted in according with the ZBA's "Special Rules of Procedure for Appeals from Decisions of Planning Commission".

The Board proceeded to discuss the merits of each finding of fact outlined in the draft Findings, Conclusion, Decision, and order of the Zoning Board of Appeals.

MOTION: Mr. Racheff made a motion that in the case of ZBA13-329A, that based on the findings of fact agreed upon and dictated in this hearing, to be enumerated in the Findings and Decisions that the April 8, 2013 decision of the Planning Commission be vacated and that this matter is remanded to the Planning Commission to be conducted appropriately in accordance with the Land Management Code.

SECONDED: Mr. Patchan

VOTE: 4-0

NEW BUSINESS

CASE NO.: ZBA 13-760CU, Conditional Use

LOCATION: 10 Clarke Place

APPLICANT: Monique Pasquale

Mr. Love entered the entire staff report into the record.

PUBLIC COMMENTS:

Two anonymous emails were put into record and they were concerned about the parking along the street.

Ms. Kathryn McKenzie resides at 116 Clarke Place. She was concerned about having two bed and breakfast on their street and that parking would be an issue.

Mr. Phil LeBlanc resides at 4 Clarke Place and is in support of this application.

Mr. Wayne Larkin resides at 112 Clarke Place and is concerned about the parking, and wondering if this business is already operating out of her home.

MOTION: Mr. Patchan moved for approval based on the following findings of fact:

1. The policies and regulations found in both the 2010 Comprehensive Plan and the Land Management Code (LMC) support the use of the property as a bed and breakfast.
2. The characteristics of the bed and breakfast/tourist home and its operation on the property in question may create additional impacts such as increase pedestrian or vehicular traffic and parking needs; however, compliance with the criteria established under Section 809 of the LMC will ensure that the proposed use will not create a greater adverse impact than any use permitted by right in the R4 district.
3. The proposed use of the property complies with the provisions of Article 8, Section 809 entitled *Bed and Breakfast/Tourist Homes* based on the following:
 - a. The property is adequate for the proposed use and the use of the property for a bed and breakfast will not constitute a nuisance because of increased vehicular traffic, noise, odor or any other activity associated with the use.
 - b. The property lies within the HPO (Historic Preservation Overlay) and therefore, is not limited by the number of bed and breakfast/tourist homes in the vicinity or the proximity to another bed and breakfast/tourist home.
 - c. The property owner resides at the subject property.
 - d. There will be no exterior evidence of the bed and breakfast/tourist home other than a two square feet sign.
 - e. The Applicant has adequately demonstrated that a modification to the parking requirements is warranted and that available on street parking in the area is adequate to mitigate the reduction in off street parking.

- f. The Applicant has provided guarantees that the property will not be used, leased, or rented for business or wedding reception activities.
- g. The Applicant has indicated that breakfast will be the only meal served to guests and that it will not be served to any other paying nonresident of the premises.
- h. The Applicant has provided guarantees that no paying guest will remain in the bed and breakfast for more than fourteen (14) days within a thirty (30) day period.
- i. Only two (2) guests over the age of 18 will be permitted per guest room associated with the bed and breakfast.
- j. The Applicant has indicated that they will maintain a register of all paying guests listing the guests' names, dates of arrival and departure, room number and number of occupants per room. Said register will be made available to appropriate city officials upon request.

Mr. Patchan qualified the approval on one condition:

- 1. In accordance with Section 312(g), the Applicant must apply for and receive a zoning certificate lawfully establishing the use of a bed and breakfast/tourist home within 2 years of the approval or the approval shall become void.

SECONDED: Ms. Colby

VOTE: 4-0

The meeting adjourned at 9:27 p.m.

Respectfully submitted,

Lea M. Ortiz